

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NO. 03 CV 12307 RGS

JOSEPH CHRISTOFORO,)
Plaintiff)
)
vs.)
)
)
JULIO LUPO,)
FRANK G. COUSINS, JR.,)
INDIVIDUALLY AND IN HIS)
CAPACITY AS ESSEX COUNTY)
SHERIFF, and)
CERTAIN UNKNOWN INDIVIDUALS,)
Defendants)

**DEFENDANT JULIO LUPO'S MOTION FOR ORDER
GRANTING ACCESS TO CRIMINAL OFFENDER
RECORD INFORMATION ON JOSEPH CHRISTOFORO**

In compliance with the Policy of the Judicial Conference of the United States and the E-Government Act of 2002, Julio Lupo hereby electronically files this redacted copy of his Motion to be replaced by a complete copy of said Motion sent via first-class mail to the Office of the Civil Clerk, United States District Court, One Courthouse Way, Boston, MA 02210-3002 on May 21, 2007. Said completed paper copy of said Motion includes personal information redacted from this electronically filed copy.

The Defendant, Julio Lupo ("Lupo"), moves this Court for an Order allowing Lupo to obtain from the State's Criminal Justice and Correctional Agencies, Criminal Offender Record Information ("CORI") relating to Joseph Christoforo, Date of Birth: xx/xx/1963, Social Security Number xxx-xx-8806.

The Court should allow Lupo access to the requested "CORI" information so that Lupo may determine what information exists relating to Joseph Christoforo's criminal records, in order to prepare an adequate cross-examination of Joseph Christoforo and to test the credibility of his testimony in the above-captioned matter.

The Criminal History Systems Board ("CHSB") has established a General Grant of access for such information known as the "Attorney of Record Certification" pursuant to 806 C.M.R.

4.02. This authorization provides that "[a]ttorneys of record may receive CORI in civil litigation for witness impeachment or trial strategy purposes. This general grant of access requires an approved motion from the court." Strong v. American Drug Stores, Inc., 2002 WL 221028 *2 (Mass. Super.); see also Schuurman v. Town of North Reading, 139 F.R. p.276 (D.Mass. 1991).

Counsel for Defendant, Julio Lupo, certifies that the information contained in Joseph Christoforo's CORI Reports will not be released to any person not directly involved in this action (except to the extent that the Court determines any such information is admissible at trial) and will not use that information except as described in this motion.

For all the foregoing reasons, the Defendant, Julio Lupo, requests that the Court enter an order directing the CHSB (or any other governmental agency possessing criminal offender record information) to release CORI Reports for Joseph Christoforo.

A prepared form of Order has been attached.

JULIO LUPO, DEFENDANT

/s/ Joseph W. Monahan, III

Joseph W. Monahan, III
BBO #351100
Monahan & Padellaro
43 Thorndike St.
Cambridge, MA 02141
(617) 494-1188

Dated: May 21, 2007

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(2)

I hereby certify that my associate, Jay Hodapp, I have conferred with all counsel of record prior to filing the Motion for Order Granting Access to Criminal Offender Record Information on Joseph Christoforo. Plaintiff's counsel requested additional time to consider the motion. Defendant's counsel therefore will delay filing until May 21, 2007, but also notes that Plaintiff will have the opportunity, if desired, to file an opposition.

/s/ Joseph W. Monahan, III

Joseph W. Monahan

Dated: May 21, 2007

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(PROPOSED) ORDER

In compliance with the Policy of the Judicial Conference of the United States and the E-Government Act of 2002, Julio Lupo hereby electronically files this redacted copy of the proposed Order to be replaced by a complete copy of said Order sent via first-class mail to the Office of the Civil Clerk, United States District Court, One Courthouse Way, Boston, MA 02210-3002 on May 21, 2007. The completed paper copy of said Order includes personal information redacted from this electronically filed copy.

The Defendant, Julio Lupo's Motion for an Order granting access to criminal offender record information concerning Joseph Christoforo, from the State's Criminal Justice and Correctional Agencies, Criminal Offender Record Information ("CORI"), Date of Birth: xx/xx/1963, Social Security Number xxx-xx-8806 is hereby allowed.

Any governmental agency possessing criminal offender record information concerning

Joseph Christoforo, Date of Birth: xx/xx/1963, Social Security Number xxx-xx-8806 shall release the information to Attorney Joseph Monahan or his appointed agent upon presentation of this Order.

By the Court:

United States District Judge